

# **MINUTES**

## **REGULAR MEETING OF THE NEWTON CITY COUNCIL – OCT. 19, 2010**

The regular meeting of the Newton City Council was held on Tuesday, October 19, 2010 at 7:00 p.m. in the Council Chambers at City Hall with the following present: Mayor Robert A. Mullinax and Council Members Robert C. Abernethy, Jr., Wayne Dellinger, Mary Bess Lawing, Bill Lutz, Tom Rowe, and Mayor Pro Tem Anne Stedman.

Also in attendance were City Manager Todd Clark, City Attorney Larry Pitts, Assistant City Clerk Gary Herman, City Department Heads, and members of the Management Team. City Clerk Beunice “Bootsie” Roberts was absent from the meeting.

### **ITEM 1. CALL TO ORDER – ROBERT A. MULLINAX:**

Mayor Robert A. Mullinax called the meeting to order and welcomed everyone to the meeting.

### **ITEM 2. OPENING – COUNCIL MEMBER WAYNE DELLINGER:**

Council Member Wayne Dellinger led the audience in the Pledge of Allegiance.

### **ITEM 3. APPROVAL OF MINUTES FROM THE OCTOBER 5, 2010 REGULAR CITY COUNCIL MEETING:**

A motion was made by Council Member Mary Bess Lawing, seconded by Council Member Tom Rowe, and unanimously adopted to approve the minutes from the October 5, 2010 Regular City Council Meeting as submitted.

### **ITEM 4. CONSIDERATION OF CONSENT AGENDA ITEMS:**

A motion was made by Council Member Mary Bess Lawing, seconded by Council Member Bill Lutz, and unanimously adopted to approve the Consent Agenda Items as submitted.

#### **A. Tax Releases – September 2010**

The following tax releases have been received from the Catawba County Tax Collector. The reason for each release is annotated beside the name.

<b>Tax Year</b>	<b>Tax Release Number</b>	<b>Name</b>	<b>Reason</b>	<b>Amount of Release</b>
2010	14	Mike's Wholesale Cars, Inc.	Amended return per accountant & depreciation schedule	\$7.99
2010	15	Waldron, Pendleton G, DDS, PA	Amended per recent audit by taxpayer's accountant	\$212.55

## **B. Sewer Adjustments – October 2010**

The following sewer adjustments are recommended for approval. The adjustments are recommended as a result of a water leak at the service address or a pool fill up.

<b>Account Number</b>	<b>Name</b>	<b>Service Address</b>	<b>Adjustment Period</b>	<b>Amount of Adjustment</b>
15000020-001	Betty Sue Rector	323 West E. Street	Jul – Sep 2010	209.25
43001480-001	Bennett Setser	1303 Oak Hill Dr	Aug 2010	260.87
44000740-001	Paul Walker	1479 Little Hill Rd	Jul –Aug 2010	192.05

### **ITEM 5. COMMENTS FROM THE PUBLIC: (PERSONS WANTING TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS ARE REQUESTED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING):**

Mayor Mullinax asked if there was anyone in the audience who wished to speak on a non-agenda item, and no one came forth.

### **ITEM 6. PUBLIC HEARING:**

#### **A. Subdivision Ordinance Text Amendment #2010-01 and Zoning Ordinance Text Amendment #2010-02 – Implementation of Adopted Plan Recommendations**

Mayor Mullinax said there has been discussion in the past about the proposed Subdivision Ordinance Text Amendment #2010-01 and the Zoning Ordinance Text Amendment #2010-02.

The Mayor recessed the regular meeting, and called to order a Public Hearing.

Assistant Planning Director Alex Fulbright said that at the September 21 meeting, the City Council requested that staff advertise for the Public Hearing set for October 19 to inform the public of proposed Subdivision Ordinance Text Amendment #2010-01 and Zoning Ordinance Text Amendment #2010-02. Mr. Fulbright said that approval of the text amendments would implement the Eastside and Southeast Area Plans citywide.

Mr. Fulbright highlighted some of the major changes proposed in the text amendments, including reducing the maximum length of cul-de-sac streets to 565 feet with increased circular turnaround space. The proposed amendments also call for 500 square feet of formal open space per lot and 1,000 square feet of informal open space per lot. Mr. Fulbright showed a photo of the entrance to the Summerlin subdivision as an example of formal open space.

Council Member Wayne Dellinger asked if Summerlin would comply with the proposed ordinance regarding open space. Mr. Fulbright said he would have to check. Council Member Dellinger questioned why someone who builds 30 houses would need a bigger entrance than someone who builds 10 houses. Mr. Fulbright explained that the formal open space is not just entrances, but would ideally be spread throughout the development. Mayor Mullinax said that the proposed amendments would further dictate space requirements.

Council Member Robert C. Abernethy, Jr. asked who would maintain the open space and how the City would enforce it. Council Member Abernethy also stated that he believes the proposed amendments are restrictive, and that telling the property owner what he/she can do with their property concerns him. Mr. Fulbright related that Catawba County requires more open space than the proposed amendments would require. Council Member Wayne Dellinger said that is because the lots within the county are larger.

Mayor Mullinax said that further restrictions will continue the elimination of subdivisions, and noted that this was discussed at a prior meeting. Council Member Abernethy said he believes this proposal may put neighborhoods out of the price range for many people. Mayor Mullinax stated that he has been an advocate for development for the last four years, but he said he doesn't see anything constructive in these recommendations to assist the City in bringing housing into the area.

Mr. Fulbright also noted that the proposed text amendments would require five-foot sidewalks on both sides of the street in subdivisions, except in those that yield two units per acre or less and for streets that carry less than 200 average daily trips or serves less than 20 dwelling units. He showed some photos of Summerlin Place, West 7<sup>th</sup> Street, South College Avenue, Court Street Commons, and Shannonbrook, to give examples of sidewalks and lack thereof.

Mr. Fulbright also discussed access and connectivity, for which the proposed amendment would follow the International Fire Code.

Mr. Fulbright then discussed the proposed manufactured home appearance criteria included in the amendment, which would require singlewide manufactured homes to adhere to the requirements for doublewide manufactured homes. Mayor Mullinax asked if the County has eliminated singlewide mobile homes. Mr. Fulbright said that he is not sure, but believes that to be mostly correct. The Mayor also asked if someone has a singlewide that has been "grandfathered" in, could they replace the existing singlewide with another one. City Manager Todd Clark said he believes there would be a time limit. Mr. Fulbright agreed, and said the owner would have 180 days to replace the singlewide.

Mr. Fulbright then discussed buffer and screening, noting that the proposed amendments take topography into account and encourages the use of vegetation screening at streams. He then progressed to vehicular access and circulation, with the major point being that the maximum number of driveways would be one (1) per lot, unless the lot width exceeds 300 feet and approval is granted by the Board of Adjustment. Mr. Fulbright said that joint access and connectivity would be required when practical.

Mr. Fulbright then discussed pedestrian access and circulation, noting that sidewalks would be required on frontage roads and to connect buildings for commercial areas. He gave an example of the Food Lion shopping center on Hwy. 10 at the intersection of Startown Road. Council Member Mary Bess Lawing asked if most cities require a sidewalk in front of a new building. Mayor Mullinax said that citizens on South Brady and South College avenues would like sidewalks.

Mr. Fulbright then referred to a guidance sheet for non-residential building appearance criteria. He said the Newton Planning Commission discussed the minimum appearance criteria at several meetings to ensure that what they decided would leave a legacy. Mr. Fulbright posed a question that 50 years from now, will new buildings in Newton be worthy of historic registry and something to be proud of? Mr. Fulbright said the proposed regulations do not address "ugly," but the regulations would ensure that the buildings have character. He said the Planning Commission wants to see something special because the City is special. The proposed amendment would require three (3) of the following architectural elements for non-residential buildings' primary entrances: canopy, portico, roof overhang, recess, projection, raised cornice parapet, peaked form roof, arches, outdoor patio,

display windows, planters, wing walls, sitting or landscaped areas, or other integrated details. The criteria also addressed service entrances, temporary walls, and colors.

City Manager Todd Clark asked if the proposed amendments would bring continuity to the St. Pauls, Eastside, Southwest, and Southeast area plans, which Mr. Fulbright confirmed.

Mayor Mullinax stated that he doesn't believe these amendments are something that the City Council needs to adopt.

Mayor Mullinax asked if there was anyone in the audience who would like to speak on the issue, and no one came forth. Mayor Mullinax closed the Public Hearing, and called the regular meeting back to order.

Mr. Fulbright said that there would be recurring issues with the various plans, so the Planning Commission thought it would be best to recommend the changes citywide.

Mayor Mullinax asked if staff has received any input from the public. Mr. Fulbright said that staff sent a copy of the proposed amendments to the Homebuilders Association and he spoke with Mr. Dent Allison about the changes.

Council Member Bill Lutz said he believes the proposed amendments have some positives and negatives, but said he is not ready to vote on the matter at this time. Council Member Lutz said he appreciates the hard work of the Planning Commission. He also noted that the handouts presented at the meeting were helpful.

Council Member Abernethy said he would like to keep the positive aspects of the amendments, but he is concerned about the sidewalk issue.

Council Member Tom Rowe said he believes the proposed requirement for sidewalks on both sides of the street should be removed, and that the current open space requirements should remain as-is. Council Member Rowe said he agrees that the cul-de-sac radius should be increased for fire trucks and sanitation trucks. He also agrees that sidewalks should be five (5) feet wide. Council Member Rowe said there are some good points in the amendments, but his main concerns are two sidewalks and open space requirements.

Council Member Mary Bess Lawing said the proposed amendments would help create a great community as a lot of people would like to have a sidewalk. Council Member Rowe said that many people can't afford some things. Council Member Lawing it concerns her when she hears people say they plan to move away when their children finish school. Council Member Rowe said the City is doing the best it can do, especially in terms of recreation and services.

Mayor Mullinax said that some people have told him they would like to move back to Newton, but can't afford to move. The Mayor said that increasing the price to live in Newton is just another roadblock.

Council Member Dellinger agreed that one sidewalk is enough and believes the current open-space requirements are sufficient. Council Member Dellinger said he also believes the ordinance for cul-de-sacs should remain the same, and he said he doesn't agree with the proposed driveway limitations. Council Member Dellinger said there are three or four points that the Council agrees on.

Council Member Abernethy said driveway limitations concern him, as well as the two sidewalks issue.

Council Member Dellinger suggested that Council table the issue and give direction to staff. Mayor Mullinax asked Planning Director/Assistant City Manager Glenn Pattishall if the matter would have to go back to the Planning Commission, and Mr. Pattishall said no. Mayor Mullinax instructed staff to rethink the issue and submit another proposal to the Council. Mayor Mullinax asked Mr. Pattishall if the text amendments were time sensitive, and Mr. Pattishall said no.

The Mayor said that the Council will meet at 6:30 p.m. at a future meeting to discuss the amendments again.

**B. Consideration of Proposed Ordinance to Amend City Code – Chapter 95 – Trees**

City Manager Clark said the Council had reviewed the proposed Tree Ordinance, and had only one change in Section 95-11 that the Tree City Board be appointed by the City Council rather than just the Mayor.

Mayor Mullinax recessed the regular meeting, and called to order a Public Hearing to discuss a proposed ordinance to amend the City Code, Chapter 95 – Trees. The Mayor said the ordinance is a requirement for Newton to become a Tree City, and said he is excited to begin the process, noting that this is one of the City Manager's goals.

Mayor Mullinax asked if there was anyone in the audience who would like to speak on the issue, and no one came forth. Mayor Mullinax closed the Public Hearing, and called the regular meeting back to order.

A motion was made by Council Member Mary Bess Lawing, seconded by Council Member Tom Rowe, and unanimously adopted to approve an ordinance amending the City Code of the City of Newton to add a new Chapter 95 – "Trees."

**(ORDINANCE #2010-22 IS HEREBY REFERENCED  
AND ON FILE IN THE OFFICE OF THE CITY CLERK)**

**ITEM 7. OLD BUSINESS:**

**A. Consideration of Water Tank Improvements and Possible New Sources of Revenue**

City Manager Clark said that the 500,000-gallon water tank off West 1<sup>st</sup> Street is deteriorating. Mr. Clark noted that the tank was constructed in 1948, but has been out of service since 1994. He said the City has a company that is interested in putting a wireless antenna on the tank, and the City currently receives revenue from an existing cellular provider. Mr. Clark said the Council has several options for the tank, including demolition, refurbishment, construction of a new tank, or removal of the tank and construction of a new cellular antenna tower. Mr. Clark said the water tank has historical value to the community since it has been here since 1948.

Public Works & Utilities Director Wilce Martin then addressed the Council. Mr. Martin said the tank was last cleaned, spot primed, and painted in 2005, but the paint began to chip in 2008 and has worsened. He said there is rust inside the tank. Mr. Martin said that Utility Service Company of Spartanburg, South Carolina performs maintenance on the City's tanks. He said Utility Service employees inspected the tank and found pinholes, rusted holes, and outside deterioration. Mr. Martin said the company doesn't believe the tank can serve as a water storage tank.

Council Member Abernethy said he believes the location isn't the preferred location for a City water storage facility. Mr. Martin agreed, noting that a tank on the west side of the City would be more beneficial.

Planning Director/Assistant City Manager Glenn Pattishall then addressed the Council to speak about options for the tank. Mr. Pattishall said the first option would be to demolish and remove the tank at a cost of \$25,000. Mayor Mullinax said that was in the budget last year and the Council eliminated the funding.

Mr. Pattishall said the second option would be to construct a new 500,000-gallon tank at an approximate cost of \$1 million. He also noted that the location is not prime.

Mr. Pattishall said the third option would be to refurbish the tank at a cost of \$277,102, utilizing an interest-free five-year payment plan with Utility Service Company. He said the total cost over the five-year period would be over \$300,000, which would include yearly maintenance and inspection.

Mr. Pattishall said the fourth option would be to demolish and remove the existing tank, and construct a 199-foot tall self support tower, at a total cost of approximately \$130,000. He said staff ran an amortization schedule over a five-year period at a 3.14 percent interest rate, which totaled \$142,285.

Mr. Pattishall said the City currently has a lease agreement with SunCom Wireless Property Company, LLC of Bellevue, Washington, which was entered into on October 8, 2008 for a five-year period with the following lease terms: years 1 and 2=\$36,000, years 3 and 4=\$39,000; and year 5=\$42,000. Mr. Pattishall said that staff is currently in discussion with another cellular provider about leasing space on the water tank. He said the company is agreeable to comparable lease terms. He said another company is interested in attaching two small antennas for wireless Internet service. Mr. Pattishall said if the City entered into the new agreement with an additional carrier at the same lease terms as SunCom, the total revenues from both leases would be \$75,000 in 2010-2011, \$75,000 in 2011-2012, and \$81,000 in 2012-2013.

Council Member Dellinger asked how many antennas the City could have on the water tank. Mr. Pattishall said that it was uncertain without a structural engineering study, but based on what he was told by the prospective cellular service provider's structural engineering firm, one additional antenna might be possible, which would make three antennas the maximum.

Council Member Abernethy said the revenues should be designated to pay the cost of refurbishing the tank.

Council Member Tom Rowe said demolition of the water tank might not be a bad idea. Council Member Dellinger said that if the City can get additional revenues from the wireless providers, that money should pay the cost of refurbishing the tank. Council Member Dellinger also stated that the water tank is a landmark for the downtown area.

Mayor Mullinax asked Council Member Rowe if the City should erect a cell tower if the water tank was removed. Council Member Rowe said he is concerned that the City would be spending \$200,000 every five years on a tank that doesn't hold water. Council Member Rowe said he understands that some Council Members don't want to see the tank removed. Mayor Mullinax said that at one point the City had \$23,000 to tear it down, and he was in favor of it.

Council Member Abernethy said the tank is nostalgic. He said people see the tank and it brings them downtown. Council Member Abernethy said it is an "expensive billboard," but it has a visual effect. He also raised the question that if the tank was demolished, could the wireless providers walk away. He also asked how often the tanks are painted. Mr. Martin said the tanks are painted approximately every 10 years.

Council Member Lawing said the water tank is a landmark to her, as one can see it even from the Startown area – it tells people where downtown Newton is. She said it would be a mistake to remove the tank, and that the City should refurbish the tank. Council Member Dellinger agreed that the tank needs to be refurbished, not removed.

Council Member Lutz asked how many years it would be before the tank would have to be painted again if the City refurbishes the tower for \$277,102 now. Mr. Martin said it would be approximately every 10 years. Mr. Martin said that the inside would not require as much maintenance once refurbished since no chlorine would be in the tank.

Council Member Lutz said the Council is basically looking at spending \$142,285 (demolition and removal of tank, erection of new tower) versus \$277,102 (refurbishing existing tank).

Mayor Mullinax asked Council Members to recall when the fire whistle was removed. The Mayor said that was a bad situation, and tearing down the water tank reminds him of that situation.

Council Member Dellinger said the City can actually make money over a five-year period.

A motion was made by Council Member Wayne Dellinger, seconded by Council Member Robert C. Abernethy, Jr., and unanimously adopted to refurbish the existing water tank.

Mayor Mullinax then asked the Council if the City should pay for the refurbishment, or should the City utilize the five-year financing package offered by Utility Service Company. Mr. Martin noted that the financing agreement is interest-free. City Manager Clark said the only additional fee included in the five-year agreement is the maintenance fee.

Finance Director Serina Hinson explained that the revenues from the tank would go to the water/sewer fund. Mr. Martin explained that regardless of the financing arrangements, the City would still have to pay \$8,000 per year for maintenance anyway.

There was a short discussion regarding “wrapping” the tank versus painting it. Mr. Martin said that painting the City logo on the tank is included in the price.

City Manager Clark asked when the first payment would be due to Utility Service Company – in the 2010-2011 budget or 2011-2012 budget. Mr. Martin said he was unsure but would find out.

Council Member Rowe said that after the discussion, he changed his mind about removing the tank.

A motion was made by Council Member Robert C. Abernethy, Jr., seconded by Council Member Wayne Dellinger, and unanimously adopted to utilize the five-year financing agreement with Utility Service Company.

## **ITEM 8. NEW BUSINESS:**

### **A. Consideration of Street Overlay and Greenway Paving Bids**

Public Works & Utilities Director Wilce Martin said the City solicited bids for paving Phase II of the City of Newton Heritage Trail Greenway and the Street Overlay Projects for the current fiscal year.

Mr. Martin said staff sent out four solicitations for bids, with Burke Grading and Paving having no response, Carolina Paving with a total bid of \$131,565, J.T. Russell and Sons with a total bid of \$137,925, and Midstate Contractors with a submitted “no bid.”

Mr. Martin said Carolina Paving submitted the lowest qualified bid for 12 street overlay projects (\$98,665 including \$13,000 contingency), and \$32,900 for paving the Greenway, which is 3,905 feet long and 10 feet wide.

Mayor Mullinax asked why the City only received two actual bids for the project. Mr. Martin said he was unsure. Council Member Dellinger asked if the project timeline was possibly too short for some contractors. Mr. Martin said he did not think the timeline was the issue. Council Member Dellinger asked how many days were allowed for completion of the project. Mr. Martin said he believes it was approximately 45 days.

Council Member Abernethy asked if the bid was approved, would the Greenway be completed in 45 days. Mr. Martin said yes, as long as temperatures stay above 40 degrees.

A motion was made by Council Member Bill Lutz, seconded by Council Member Mary Bess Lawing, and unanimously adopted to approve the bid from Carolina Paving for

\$131,565 to pave Phase II of the Greenway and complete the street overlay projects as listed.

**ITEM 9.**      **CITY MANAGER’S REPORT:**

None.

**ITEM 10.**      **QUESTIONS AND COMMENTS FROM MAYOR AND COUNCIL:**

Mayor Mullinax said that the City Manager’s father-in-law and mother-in-law were in a car accident, and urged everyone to keep the family in their thoughts and prayers.

**ITEM 11.**      **ADJOURNMENT:**

There being no further business to discuss, a motion was made by Council Member Mary Bess Lawing, seconded by Council Member Tom Rowe, and unanimously approved that the October 19, 2010 meeting be adjourned.

Respectfully submitted by:

Robert A. Mullinax, Mayor

Gary L. Herman, Asst. City Clerk